

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-107-01067R

Parcel No. 8947-36-908-001

Donald & Zeta Graham,

Appellants,

v.

Sioux City Board of Review,

Appellee.

Introduction

This appeal came on for a telephone hearing before the Property Assessment Appeal Board (PAAB) on April 11, 2016. Donald and Zeta Graham were self-represented. Attorney Jack Faith represented the Sioux City Board of Review.

The Grahams are the owners of a residential property located at 1110 Meadow View Court, Unit #4, Sioux City, Iowa. The subject is a one-story, townhouse condominium, built in 2008, with 1110 square feet of living area; an open porch; a patio; and a 440 square-foot attached garage. The dwelling is listed in normal condition with average quality construction (Grade 4+05). The site is 0.178-acres.

The property's January 1, 2015, assessment was \$155,400. The property has an urban revitalization exemption of \$38,400, which ends in December 2019. The Grahams' protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property; that the property was assessed for more than the value authorized by law; and that there is an error in the assessment under Iowa Code sections 441.37(1)(a)(1)(a, b & d). The error claim essentially restates their equity and market value claims. The Board of Review denied the protest. The Grahams then appealed to PAAB. They assert the property's correct value is \$128,000.

Findings of Fact

The Grahams' unit is located in the Deer Hollow Pointe Condo subdivision. Residency in the complex is limited to persons over the age of fifty-five. The complex has forty-eight condominiums, all but one are identical in style and size. (Ex. 2). The units are organized into two categories: 1) those located on the north end of the development that are built up on a cul-de-sac featuring a greenspace and gazebo and where the Grahams' condominium is located and, 2) those located on the south side of the development. For ease of identification, we will differentiate between the properties as north condominiums and south condominiums. There are twelve units on the north side and thirty-six units on the south side. All units have the same construction grade, offer similar exterior appeal, were built during the same period, and all but one are the same size. For the purposes of our analysis of Grahams' equity and overassessment claims, we find that the majority of the condominium units in the complex are similarly situated and comparable properties. We do not include the dissimilar unit in the following analysis.

Notes on the property record card state that the subject complex was reviewed for the 2015 assessment. During the review, there was an attempt to find a pattern as to why north condominiums were selling for more than south condominiums; despite the fact, the units are essentially identical. There is no substantive conclusion offered on the property record card to explain the differences. Despite failing to identify an explanation or support for the disparities, north condominiums were assessed at \$155,400 while the south condominiums were assessed at \$121,000.

Donald Graham testified it is unfair that the condominiums in the complex are assessed differently when they are all built on slabs and have the same square feet of living area. He purchased the subject in November 2013 for \$149,950, or \$135 per-square-foot. (Ex 3). Graham reports that the property located at 1111 Meadowview Court #1 sold for \$173,791 in 2014, nearly \$24,000 more than his purchase price, yet has the same assessment as his property. We note that property was a sale between family members or related parties, and not considered a normal transaction indicative of market value. (Ex. 6) Graham believes his assessment only selectively considered

sales in 25% of the complex with higher sale prices. He believes the assessment ignored the other 75% of the sales with lower sale prices and resulted in an inflated assessment.

Graham testified the builder of these townhomes held out for high initial sale prices, often for years after construction. Similarly, his property was built in 2008 and held until they purchased it in 2013 for the full asking price. He explained the owners in this complex often die or are forced into a nursing home and family members sell them for lower resale prices just to get out.

Excluding the dissimilar unit, eighteen sales occurred in the subject's development between 2013 and 2015. (Ex 1). These properties were built between 2004 and 2014. With the exception of age, there are no discernable differences between the improvements. However, the north condominiums sold between \$146,000 and \$149,950, whereas the south condominiums sold for between \$110,000 and \$128,500. The following chart summarizes the 2014 sales and the most approximate sales to January 1, 2015.

| | Sale Price | Sale Date | Assessment | Year Built | North/South |
|-----------------------|------------|-----------|------------|------------|-------------|
| Subject | N/A | N/A | \$155,400 | 2008 | North |
| 1 - Bldg 1121, Unit 2 | \$125,000 | Mar-14 | \$121,000 | 2007 | South |
| 2 - Bldg 1100, Unit 1 | \$149,950 | Apr-14 | \$155,400 | 2008 | North |
| 3 - Bldg 1110, Unit 3 | \$149,950 | Apr-14 | \$155,400 | 2007 | North |
| 4 - Bldg 1130, Unit 4 | \$122,500 | May-14 | \$121,000 | 2006 | South |
| 5 - Bldg 1120, Unit 1 | \$121,000 | May-14 | \$121,000 | 2007 | South |
| 6 - Bldg 1141, Unit 3 | \$126,500 | Jun-14 | \$121,000 | 2005 | South |
| 7 - Bldg 1111, Unit 3 | \$159,950 | Feb-14 | \$108,800 | 2014 | North |
| 8 - Bldg 1100, Unit 2 | \$146,000 | Jan-15 | \$155,400 | 2008 | North |
| 9 - Bldg 1111, Unit 4 | \$159,230 | Jan-15 | \$124,300 | 2014 | North |

Graham explained that the gazebo and green space near the north condominiums are available for use by and benefit all the complex residents equally. Therefore, he believes the sale of all properties in the complex should be similarly valued. Graham testified that first time sales have historically had higher sale prices

and resales have lower sale prices. He points to the property at 1120 Meadowview #1 as an example of this pattern. (Sale #5). It was built in 2007, originally sold for \$139,950 in 2008, and resold for \$121,000 in 2014. (Exhibit 5). However, we note the most recent sale of this property was a 1031 exchange and not considered a normal sale.

We find no reason to exclude a sale based solely on its location in the development because no evidence was presented to suggest that location alone reflects the differences in the sale prices. The record indicates Sales 1 and 5 sold as part of a 1031 exchange. For this reason, we do not consider them sufficient for comparison. However, we have no evidence that the other sales did not occur under typical motivations by both parties and we find them to be normal, arm's length transactions. The remaining sales had sale prices between \$122,500 and \$159,950. Five of the sales were located in the north portion of the subject development, similar to the subject property. Because the properties are all the same size and relatively similar age, we find that direct comparison of the sales prices is reasonable. The average sale price is \$144,870 (rounded).

The Board of Review did not submit any evidence.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Kelly asserted that his property was not being assessed equitably with other properties in the condominium complex. We find that all of the units in the subject's complex, with one exception, are similarly situated and comparable properties. The units are of identical size, offer similar exterior appeal, are of the same construction grade, and have relatively similar effective ages.

We conclude that a uniform assessment method was not applied in the subject's complex. The record indicates the Assessor's Office sought to find a pattern between the disparate sale prices in the development, despite the properties' similarity. Although the higher sales occurred amongst the north condominiums, there is no definitive support that the locational difference caused the variance in the sale prices. Nonetheless, the north condominiums, including the Grahams, were valued at \$155,400 while the south properties were valued at \$121,000. Based on the foregoing, we find that the Grahams have shown inequity in their assessment.

The Grahams also asserted the subject property is over assessed. In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Grahams submitted sales of other units in their development that have occurred between 2013 and 2015. Because there were ample sales of comparable properties available, we rely solely on the 2014 sales, and the January 2015 sales as the most relevant for a 2015 market value opinion. Two of the sales were the result of a 1031 exchange; for this reason, we decline to consider them. The remaining seven sales are all similar in design, style, and size to the subject property; four were built in roughly the same time-period, and two are newer construction. Five of the sales are located in the north side of the development like the subject property. There is no evidence to suggest the sales, regardless of the disparity of the prices, do not represent a fair market value. Likewise, there is no evidence to suggest that the disparity between the sale prices from high to low is the sole result of location in the development. The average of the sale prices is \$144,870 (rounded).

In short, the sales data indicates the subject's assessment is excessive. The sales data suggests the subject's correct fair market value is approximately \$144,870.

The evidence before PAAB demonstrates that the subject property is both inequitably assessed and overassessed. Iowa Code section 441.21(1) dictates that a property's assessment must be representative of its fair market value. We are cognizant of the fact that, in this case, an equitable assessment may result in an assessment below the subject's fair market value. The Iowa Supreme Court has previously observed that "no matter how desirable equalization in tax assessment may be, this may not be used as a substitute for those factors peculiar to the property being assessed that establish its value." *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 291 (Iowa 1996) (citing *Valley Forge Apartments v. Bd. of Review*, 269 N.W.2d 148, 151 (Iowa 1976)). Therefore, we find the subject's assessment should be reduced to reflect its fair market value.

Order

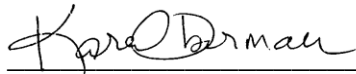
IT IS THEREFORE ORDERED that the Sioux City Board of Review's action is modified and the assessment of the subject property is set at \$144,870.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

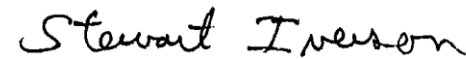
Dated this 9th day of May, 2016.



Jacqueline Rypma, Presiding Officer



Karen Oberman, Board Member



Stewart Iverson, Board Chair

Copies to:

Donald & Zeta Graham

Jack Faith